

Fair Political Practices Commission
MEMORANDUM

To: Chairman Johnson, Commissioners Hodson, Huguenin, Leidigh, and Remy

From: Brian G. Lau, Commission Counsel
Scott Hallabrin, General Counsel

Subject: Adoption of Proposed Regulation 18402.1 and Amendment of Regulation 18427 -
Principal Officer: Definition and Reporting Requirements

Date: September 26, 2008

Proposed Commission Action and Staff Recommendation: Adopt proposed Regulation 18402.1 and amendment of Regulation 18427.

Reason for Proposal: Under the Political Reform Act, a person or combination of persons qualifies as a recipient committee if they receive contributions totaling \$1,000 or more in a calendar year. (Section 82013(a).) Upon qualifying as a recipient committee, a committee must file a statement of organization within 10 days. (Section 84101.) Additionally, a committee qualifying as a recipient committee prior to an election but after the last campaign statement required to be filed before the election, may have to file a statement providing the information required in a statement of organization within 24 hours. (Section 84101(b) and (c).)

Section 84102 outlines the requirements for a statement of organization, or a 24-hour statement required by Section 84101(b) or (c), and expressly requires “the full name, street address, and telephone number, if any, of the treasurer and principal officers” of the committee. However, most committees do not identify their principal officers when submitting a statement of organization or a 24-hour statement. Contributing to the problem, the Act and current regulations do not define the term “principal officer” and do not clearly specify when a principal officer must be identified. Consequently, except for candidate controlled committees¹, the individual with the ultimate responsibility to approve a committee’s political activities is not publicly identified in most cases and can control the committee behind the veil of the committee’s treasurer.²

Summary of Proposed Actions: Staff is recommending language requiring a committee, other than a candidate controlled committee, to disclose the name of its principal officer or

¹ Candidate controlled committees must disclose the name of the controlling candidate. (Section 84102(e).) Because the controlling candidate is generally the individual with the ultimate responsibility for approving the activities of his or her controlled committee, it is not necessary to require the disclosure of other principal officers to identify the individual responsible for the activities of a candidate controlled committee.

² Every committee must have a treasurer and no expenditure can be made by or on behalf of a committee without the authorization of the treasurer or his or her designated agent. (Section 84100.) Furthermore, the treasurer must verify committee campaign statements and must use all reasonable diligence in the preparation of the statements. (Regulation 18427.)

officers when submitting a statement of organization or a 24-hour statement. The proposed language defines the term “principal officer” as “the individual primarily responsible for approving the political activity of the committee including, but not limited to, (1) authorizing the content of the communications made by the committee, (2) authorizing contributions or expenditures on behalf of the committee, or (3) determining the committee’s campaign strategy.”

In response to concerns raised at the August prenotice discussion of this proposal, staff has made a revision to proposed Regulation 18402.1 that addresses the disclosure of principal officers for committees with multiple individuals that qualify as principal officers. Recognizing the difficulty of disclosing a large number of principal officers and that routine turnover for a committee with many principal officers could require frequent amendments to the committee’s statement of organization, staff proposes language requiring committees to identify only three principal officers in those circumstances in which a committee is controlled by more than three individuals that qualify as a principal officer.

As discussed in staff’s prenotice memorandum to the Commission, staff is also recommending the following:

- Language in proposed Regulation 18402.1 requiring that the committee treasurer is identified as both the treasurer and the principal officer if no individual other than the treasurer has the primary responsibility for approving the political activity of the committee.
- Language in proposed Regulation 18402.1 clarifying that an amendment to a statement of organization shall be filed within 10 days, as currently required by Section 84103, of any change in the principal officer or officers identified in a statement.
- Conforming Regulation 18427 to proposed Regulation 18402.1 to clarify that any individual qualifying as a principal officer, as defined by proposed Regulation 18402.1(b), shall be considered the treasurer of the committee in the event that the committee fails to designate a committee treasurer.
- Other technical and non-substantive revisions to Regulation 18427.

Attachments:

- 1 – Proposed Regulation 18402.1**
- 2 – Proposed Amendment to Regulation 18427**
- 3 – Government Code Section 84102**